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*Counsel for the Plaintiff,  
 Howard M. Ehrenberg in his capacity  
 as Liquidating Trustee of Orion Healthcorp, Inc., et al.,*

UNITED STATES BANKRUPTCY COURT  
 EASTERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
	:	
ORION HEALTHCORP, INC <sup>1</sup> .	:	Case No. 8-18-71748 (AST)
	:	
----- Debtors. -----	:	(Jointly Administered)
	:	
HOWARD M. EHRENBERG IN HIS CAPACITY	:	Adv. Pro. No. 8-20-08044 (AST)
AS LIQUIDATING TRUSTEE OF ORION	:	
HEALTHCORP, INC., ET AL.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
AMERICAN EXPRESS TRAVEL RELATED	:	
SERVICES COMPANY, INC.,	:	
	:	
Defendant(s).	:	
-----	:	

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Orion Healthcorp, Inc. (7246); Constellation Healthcare Technologies, Inc. (0135); NEMS Acquisition, LLC (7378); Northeast Medical Solutions, LLC (2703); NEMS West Virginia, LLC (unknown); Physicians Practice Plus Holdings, LLC (6100); Physicians Practice Plus, LLC (4122); Medical Billing Services, Inc. (2971); Rand Medical Billing, Inc. (7887); RMI Physician Services Corporation (7239); Western Skies Practice Management, Inc. (1904); Integrated Physician Solutions, Inc. (0543); NYNM Acquisition, LLC (unknown) Northstar FHA, LLC (unknown); Northstar First Health, LLC (unknown); Vachette Business Services, Ltd. (4672); Phoenix Health, LLC (0856); MDRX Medical Billing, LLC (5410); VEGA Medical Professionals, LLC (1055); Allegiance Consulting Associates, LLC (7291); Allegiance Billing & Consulting, LLC (7141); New York Network Management, LLC (7168). The corporate headquarters and the mailing address for the Debtors listed above is 1715 Route 35 North, Suite 303, Middletown, NJ 07748.

**STIPULATION TO PERMIT FILING AND SERVICE OF PLAINTIFF’S PROPOSED  
FIRST AMENDED COMPLAINT FOR AVOIDANCE AND RECOVERY OF (1)  
PREFERENTIAL AND/OR FRAUDULENT TRANSFERS AND (2) OBJECTION TO  
CLAIM NO. 69 PURSUANT TO 11 U.S.C. §§ 502, 547, 548 & 550 & AMENDMENT TO  
CASE MANAGEMENT SCHEDULE**

Plaintiff, Howard Ehrenberg, in his capacity as Liquidating Trustee of Orion Healthcare, Inc. (the “Plaintiff”) and Defendant American Express Travel Related Services Company, Inc. (“AETRS”), and proposed Defendant American Express National Bank (“AENB”), by and through their undersigned counsel of record, stipulate as follows:

**RECITALS**

Plaintiff, AETRS, and AENB, each by and through their respective undersigned attorney, hereby stipulate and agree, pursuant to Fed. R. Civ. P. 15(a)(2), as incorporated by Fed R. Bankr. P. 7015, to permit the Plaintiff to file and serve the proposed *First Amended Complaint for Avoidance and Recovery of (1) Preferential and/or Fraudulent Transfers and (2) Objection to Claim No. 69 Pursuant to 11 U.S.C. §§ 502, 547, 548 & 550* (“First Amended Complaint”) in the form attached hereto as Exhibit A, as follows:

1. On March 12, 2020, Plaintiff filed a complaint [Dkt. No. 1] against AETRS.
2. The Summons [Dkt. No. 2] was issued by the Clerk’s Office on March 13, 2020, and on March 19, 2020, AETRS was served with the summons and complaint.
3. On July 13, 2020, AETRS filed *Defendant’s Answer and Affirmative Defenses to Complaint for Avoidance and Recovery of (1) Preferential and/or Fraudulent Transfers and (2) Objection to Claim No. 69 Pursuant to 11 U.S.C. §§ 502, 547, 548 & 550* [Dkt. No. 8], and on March 25, 2021, the Court entered the *Case Management and Discovery Plan* [Dkt. No. 22] (the “Discovery Plan”), subsequently amended by stipulation approved by the Court on August 26, 2021 [Dkt. No. 25].

4. On January 25, 2022, the Court entered an Order [Dkt. No. 30] approving the parties' *Stipulation Requesting Amendment to Case Management and Discovery Plan* [Dkt. No. 26], requesting that a deadline of March 7, 2022 be set for all written and document fact discovery, and that a deadline of March 21, 2022 be set for the submission of a stipulation advising the Court of the selection of a mediator and the date proposed for mediation.

5. A status conference was held in this adversary proceeding on January 26, 2022 and adjourned to May 11, 2022.

6. The Plaintiff and AETRS have been engaging in formal and informal fact discovery.

7. The Plaintiff has identified other transfers that he asserts should serve as the basis of additional claims against AETRS and/or AENB. Such transfers are identified in Exhibit A to the First Amended Complaint, for the card name Tomer Vardi/Orion Health.

8. AETRS and AENB consent to the Plaintiff's filing of the First Amended Complaint, provided, however:

- a. AETRS and AENB (i) do not concede the timeliness or relation-back under Fed. R. Civ. P. 15(c) of the claims made in the First Amended Complaint, (ii) reserve any statute of limitation defense or any other such time-bar defense to such claims, and (iii) defer adjudication on the same to a later date.
- b. The Plaintiff does not waive any rights with regard to defending against any relation-back or statute of limitation or any other such time-bar defenses asserted by AETRS and/or AENB.
- c. Nothing otherwise contained in this Stipulation shall operate as an admission or determination of any issue relating to any allegations in the First Amended Complaint

or any defense thereto.

9. The Plaintiff agrees that it will file and serve, via electronic mail upon counsel for AETRS and AENB, the First Amended Complaint within seven (7) days of the date of the entry of a court order approving this Stipulation.

10. AETRS and AENB shall have twenty-one (21) days from the date of service of the First Amended Complaint to file a response thereto.

11. Written fact discovery would be extended to April 29, 2022, subject to further order of the Court. A stipulation is to be filed with the Court no later than May 13, 2022 advising of the selection of a mediator and the date for proposed mediation.

**NOW AND THEREFORE, IT IS HEREBY STIPULATED AND AGREED:**

1. Plaintiff may file the proposed First Amended Complaint, and serve it via electronic mail upon counsel for AETRS and AENB within seven (7) days of the date of the entry of a court order approving this Stipulation.

2. AETRS and AENB shall have twenty-one (21) days from the date of service of the First Amended Complaint to file a response thereto.

3. Written fact discovery is extended to April 29, 2022.

4. AETRS and AENB (i) do not concede the timeliness or relation-back under Fed. R. Civ. P. 15(c) of the claims made in the First Amended Complaint, (ii) reserve any statute of limitation defense or any other such time-bar defense to such claims, and (iii) defer adjudication on the same to a later date.

5. The Plaintiff does not waive any rights with regard to defending against any relation-back or statute of limitation or any other such time-bar defenses asserted by AETRS and/or AENB.

6. Nothing contained in this Stipulation shall operate as an admission or determination of any issue relating to any allegations in the First Amended Complaint or any defense thereto.

7. Each person who executes this Stipulation represents that he or she is duly authorized to execute this Stipulation on behalf of the respective parties hereto and that each such party has full knowledge and has consented to this Stipulation.

8. This Stipulation may be executed in one or more counterparts, any of which may be transmitted by facsimile or electronic transmission, and each of which shall be deemed an original, but all of which together shall constitute one and the same document.

Dated: February 9, 2022

**PACHULSKI STANG ZIEHL & JONES LLP**  
Attorneys for Plaintiff Howard M.  
Ehrenberg in his capacity as Liquidating  
Trustee of Orion Healthcorp, Inc., et al

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Dated: February 9, 2022

**ARNALL GOLDEN GREGORY LLP**  
Counsel for Defendant American Express  
Travel Related Services Company, Inc.

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Dated: February 9, 2022

**ARNALL GOLDEN GREGORY LLP**  
Counsel for proposed Defendant American  
Express National Bank

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**SO ORDERED:**